

**STATE OF INDIANA – COUNTY OF JAY  
IN THE JAY CIRCUIT AND SUPERIOR COURTS**

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**Notice of Proposed Local Rule Amendment and Finding Good Cause to  
Deviate From Established Schedule  
October 31, 2008**

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The judges of the Jay Circuit and Superior Courts, pursuant to Trial Rule 81(B), give notice of amendments to the local court rules and find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D). All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for Local Rules concerning Special Judge selection pursuant to Trial Rule 79(H), reassignment of criminal cases pursuant to Criminal Rule 2.2, Court Reporter Rule pursuant to Administrative Rule 15 and Caseload Allocation Rule and may not take effect until approved by the Supreme Court.

Notice has been given to the public by posting on the website of the Jay County Clerk and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Jay County Bar Association. Comments may be made until November 30, 2008, to : Hon. Brian D. Hutchison, Judge, Jay Circuit Court, 120 N. Court Street, Ste 316, Portland, IN 47371.

These rule amendments will be effective on January 1, 2009, and after approval of the Indiana Supreme Court for those rules requiring approval. All current local rules of the Jay Circuit and Jay Superior Court shall be repealed as of the effective date of the proposed rules.

DATED this 31<sup>st</sup> day of October, 2008, on behalf of the Judges of Jay County.

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Brian D. Hutchison, Judge  
Jay Circuit Court

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Joel D. Roberts, Judge  
Jay Superior Court

**RULES OF CIVIL AND CRIMINAL PRACTICE AND PROCEDURE  
CIRCUIT AND SUPERIOR COURTS  
JAY COUNTY, INDIANA**

**Local Rules of Trial Procedure**

**LR38-TR3.1-1 APPEARANCES**

(A) FILING. Properly completed and signed appearance forms shall be filed in all actions pursuant to Indiana T.R. 3.1. An appearance, on the prescribed form, must be filed with the court to represent a party at a hearing and to receive notices from the Court. Each pleading, motion or other document filed, shall clearly identify the name, attorney number, address, telephone number and facsimile number of the attorney (if facsimiles are accepted), attorneys or pro se litigant filing the same and shall designate the party for whom an attorney appears.

(B) PETITIONS TO WITHDRAW Counsel desiring to withdraw an appearance in any pending action shall file a petition requesting leave of Court to do so. Permission to withdraw shall be given only after the petitioning attorney has given his or her client prior written notice of the intent to withdraw. A copy of said written notice shall be attached to the petition. The written notice to the client shall contain the client's complete mailing address and shall explain to the client that failure to secure new counsel or appear may result in dismissal of the client's case or in the rendering of a default judgment, and shall further delineate other pertinent information such as any pending trial date, hearing date and any pleading, discovery or other pre-trial deadline(s).

(C) PETITIONS ACCOMPANIED BY APPEARANCE OF OTHER COUNSEL. A petition to withdraw appearance, accompanied by the proper appearance of other counsel, or where one has been recently filed, shall constitute a waiver of the requirements of (B) of this rule.

(D) TENDERED ORDER. At the time of filing a petition to withdraw, counsel shall tender to the Court an order granting the petition and ordering the relief sought with sufficient addressed envelopes to non-

local attorneys and any unrepresented parties.

#### **LR38-TR6-1 MOTIONS - FOR ENLARGEMENT OF TIME**

**(A) INITIAL MOTIONS.** An initial written motion for enlargement of time to respond to a claim, pursuant to T.R. 6(B)(1), shall be automatically granted, allowing an additional thirty (30) days from the original due date.

**(B) SUBSEQUENT MOTIONS.** Any subsequent motions for enlargement of time to respond to a claim, pursuant to T.R. 6(B)(1), shall be supported with a written statement of specific reasons why a second or subsequent extension is required. Further, the motion shall clearly indicate in the heading that is a second, third etc., motion for enlargement of time. The Court, upon its own discretion, may allow opposing counsel an opportunity to respond to subsequent motions for enlargement of time.

**(C) CONTENTS OF MOTION.** Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is requested to be enlarged. If the motion is not filed on or before the original due date it shall state specific reasons why it is not timely.

**(D) TENDER OF ORDER.** All motions for enlargement of time shall be accompanied by a tendered order sustaining same. The order tendered upon initial motions for enlargement of time shall recite the specific date, 30 days in advance, to which the time is extended. Subsequent motions for enlargement of time shall contain appropriate blank date lines for the Court's completion.

#### **LR38-TR7-1 MOTIONS - GENERAL**

**(A) NOTICE.** When a motion requires notice of hearing, a Notice of Hearing form shall be provided. The time and date of hearing shall be left blank and fixed by the Court unless previously arranged with Court staff.

**(B) HEARINGS ON MOTIONS.** As a general rule, hearings on motions will not be scheduled unless

required by the Indiana Rules of Civil Procedure. All hearings set on motions, other than those required by the Rules of Civil Procedure, shall be within the discretion of the Court and may be set on the Court's own motion or upon the request of any party.

Where hearings upon motions are required by the Indiana Rules of Civil Procedure, the Court will set hearing upon said motions at the time of filing. Parties may, however, waive hearing upon said motions by filing with the Court, simultaneous with said filing, a written "WAIVER OF HEARING" upon a page separate from and not incorporated in the pleading or motion. Where a hearing has been set, if all parties consent to a waiver of hearing, the hearing will be stricken.

(C) REQUEST FOR HEARINGS. Any party may request hearing upon a motion, but the granting of a hearing is discretionary with the Court, except where required by the Indiana Rules of Civil Procedure. When a hearing is requested, the request shall be made by filing with the Court a written "REQUEST FOR HEARING" upon a page separate from and not incorporated in a pleading or motion. Requests for hearing should be made in proper pleading form and not by correspondence to the Clerk.

## **LR38-TR10-1 PREPARATION OF PLEADINGS, MOTIONS AND OTHER DOCUMENTS**

(A) TITLES AND SUB-TITLES. All pleadings and orders shall be titled to delineate each topic included in the pleading, and further specificity shall be provided by placing subtitles within the body of the pleading, e.g., where a pleading contains an Answer, a Counterclaim, a Cross-claim, a Motion to Dismiss, a Motion to Strike or a Jury Request. The abbreviation (H.I.) should not be used in pleadings.

(B) SIGNATURES AND REQUIRED INFORMATION. Neither typewritten signatures nor facsimile signatures shall be accepted on original documents. Facsimile signatures are, however, permitted on copies and facsimile filing. All pleadings shall contain the written signature and attorney number of the individual attorney, his or her printed signature, the name, if appropriate, of the law firm, complete address and telephone number (including zip and area codes respectively), and a designation as to the party for whom

he or she appears.

( C ) NUMBER OF COPIES. All documents submitted to the Court shall be accompanied by sufficient copies to provide retention of the original by the Clerk (plus one additional copy of orders for retention in the RJO) and copies for all parties or attorneys of record with stamped envelopes. Adequate copies must be furnished where a request is made for service by law enforcement authorities, i.e., protective orders.

(D) COPIES TO SPECIAL JUDGE. In the event a Special Judge is selected, and appointed, the Clerk shall notify such Judge of the appointment, shall furnish such Judge with copies of all pending pleadings and forward the same to the Special Judge, as well as a copy of the CCS pertaining to the cause. Once a Special Judge has qualified, parties shall mail or deliver to the Special Judge, copies of all pleadings, motions, briefs, proposed orders or other papers filed thereafter with a certificate of forwarding same made a part of the original documents.

(E) REPRODUCTIONS. Photocopied and form pleadings will be accepted only if clearly typed or printed and are legible, understandable and unaltered by strikeover or erasures and in compliance with section (A) of this Rule.

#### **LR38-TR12-1 MOTIONS - RULE 12**

(A) BRIEFS. All motions filed pursuant to T.R. 12 (Motions to Dismiss, Motion to Strike etc.) shall be accompanied by a brief. An adverse party shall have 15 days after service of the movant's brief to file an answer brief. Failure to timely file briefs shall subject all motions filed pursuant to T.R. 12 to summary ruling.

(B) EXTENSIONS OF TIME. All requests for extensions of time for filing briefs or similar action shall be timely filed and shall be accompanied by a tendered order with sufficient copies as prescribed in Rule 3.

#### **LR38-TR16-1 CIVIL PRE-TRIAL CONFERENCES**

(A) REQUIREMENT. A Pre-Trial Conference shall be conducted by the Court in civil cases pursuant to the following rules:

(1) In Cases Triable by Jury: Upon motion of any party; or upon order of the Court.

(2) In Cases Triable by the Court: Within the sole discretion of the Court. A party may request a Pre-Trial Conference in a case triable by the Court, but shall specifically state reasons in said request.

(B) CONFERENCE OF ATTORNEYS. The Conference of Attorneys provided for in Trial Rule 16(c) is encouraged, but not required. In the event a Conference of Attorneys is held, plaintiff's counsel shall prepare, in advance of the Pre-Trial Conference, a statement regarding the conference of attorneys and forward same to opposing counsel for their approval. Said statement shall then be filed with the Court at the time of the Pre-Trial Conference.

(C) ORDER FOR PRE-TRIAL CONFERENCE. Notice of the setting of the Pre-Trial Conference shall be given by written order of the Court.

(D) MEANS OF CONDUCTING CONFERENCE. The Court shall designate within the text of the Order for Pre-Trial Conference whether the conference is to be held by telephone or by personal appearance in Court by counsel of record for the parties. The Court will encourage Pre-Trial Conferences by telephone. It shall be the obligation of the plaintiff to place the call and to coordinate same with opposing counsel.

(E) AGENDA. The Court may attach to the Order for Pre-Trial Conference a written agenda delineating matters to be considered at the Pre-Trial Conference. The Pre-Trial Conference will be held pursuant to that agenda and the provisions of T.R. 16. Counsel shall be prepared to address those matters contained in the agenda at the Pre-Trial Conference.

(F) PRE-TRIAL ORDER. Following the Pre-Trial Conference, the Court may request that counsel prepare and tender a proposed Pre-Trial Order or, in the alternative, the Court itself may prepare and forward to counsel a Pre-Trial Order. In all cases, however, the letter and intent of such Pre-Trial Order shall be strictly complied with by all counsel and parties.

## **LR38-TR26-1 CIVIL DISCOVERY RULES**

**(A) USE OF COPY.** In the event it is made to appear to the satisfaction of the Court that the original of a deposition or request for discovery or response thereto cannot be filed with the Court when required, the Court may allow use of a copy instead of the original.

**(B) MOTIONS TO SHORTEN TIME TO RESPOND.** A motion requesting that the Court shorten the time period for response to discovery shall specifically set forth reasons for the request. Any such motion shall be accompanied by a tendered order containing blank lines for the Court's use in establishing the response date. Such motions shall specifically set forth why the shortened response time is necessary. Lack of diligence on the part of the requesting party may result in a summary denial of the request.

## **LR38-TR26-2 SIGNATURES AND CERTIFICATION.**

For discovery filed with the Court in seeking sanction or an order compelling, every request for and response to discovery shall be signed by a party as required by the Indiana Rules of Civil Procedure and shall further be signed by at least one attorney of record in his or her individual name. A party who is not represented by an attorney shall sign the request or response and state his or her specific address and phone number. Signature(s) shall constitute a certification that the signing person(s) has read the request or response and that, to the best of that person's knowledge, information and belief formed after a reasonable inquiry, such request, answer or objection is:

warranted by existing law or constitutes a good faith attempt to extend, modify or reverse  
existing law;

for no improper purpose, such as harassment, unnecessary delay or needless increase in the  
cost of litigation; and

not unreasonable, unduly burdensome or expensive, given the needs of the case, the prior  
discovery in the case, the amount in controversy, and the importance of the issues at

stake in the litigation.

Upon the failure to certify a request or response, or certification which is in violation of this Rule, the Court, on motion of party or upon its own initiative, may impose appropriate sanctions.

**LR38-TR26-3 DISCOVERY CONFERENCE AND DISCOVERY MATERIALS.**

(A) DISCOVERY CONFERENCE. At any time after commencement of an action, the Court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The Court may do so upon motion by the attorney for any party if the motion is accompanied by a discovery plan which includes:

- (1) A statement of the issues as they then appear;
- (2) A proposed schedule of discovery;
- (3) Any limitations proposed to be placed on discovery;
- (4) Any proposed orders with respect to discovery; and

(5) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion. Each party and his attorney are under a duty to participate in good faith in the framing of a discovery plan proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served no later than ten (10) days after service of the motion.

(B) DISCOVERY CONFERENCE ORDER. Subsequent to the conference, the Court will enter a discovery conference order which will encompass the following:

- (1) A tentative identification of the issues;
- (2) Plan and schedule for discovery;

(3) Recitation of limitations, if any, on discovery;

(4) Allocation of expenses, as may be deemed necessary for the proper management of discovery in the action;

(5) Any other matters relating to discovery.

A Discovery Conference order may be altered or amended when justice requires.

### **LR38-TR32-1 DEPOSITIONS**

(A) VIDEOTAPES. Subject to the Court's right to impose sanctions pursuant to T.R. 37, all videotapes and any expense incurred in placing said tapes in evidence at the time of trial shall be paid for by the moving party and not be taxed as Court costs. When videotapes are offered into evidence, the Court may require the offering party to file with the Court a transcript of the testimony contained therein.

(B) AGREED USE OF DEPOSITIONS IN LIEU OF TESTIMONY AT TRIAL. Attorneys frequently express the opinion or belief that depositions are taken for discovery purposes only, the concept of "discovery deposition" does not exist in the trial rules. The Court, however, desires to encourage the taking of depositions with the anticipation that they may be used in lieu of oral testimony at time of trial. In the event an agreement to use depositions in such manner is reached, pursuant to T.R. 32(A)(3)(f), such agreement shall be noted within the context of the deposition. This rule is not to be construed as a limitation on the use of depositions at trial under those circumstances delineated in T.R. 32(A)(3).

### **LR38-TR33-1 INTERROGATORIES**

(A) NUMBER LIMITED. Interrogatories propounded to a party pursuant to T.R. 33 shall be

limited in number to a total of twenty-five (25) with no more than four (4) subparagraphs per interrogatory. Subparagraphs shall relate directly to the subject matter of the interrogatory. Interrogatories shall be used solely for the purpose of discovery and shall not be used as a substitute for the taking of a deposition. For good cause shown, and upon leave of Court first obtained, additional interrogatories may be propounded.

(B) ANSWERS AND OBJECTIONS. Answers and objections to interrogatories under T.R. 31 or 33 shall set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection with the interrogatory numbers identified.

( C ) INTERROGATORIES NUMBERED AND DUPLICATED FORMS. All interrogatories shall be consecutively numbered and be applicable to the cause in which the same are filed and served. No photocopied or otherwise duplicated forms containing interrogatories shall be served unless they comply with the provisions of this Rule.

#### **LR38-TR37-1 MOTIONS TO COMPEL**

(A) DISCOVERY AND PRODUCTION OF DOCUMENTS. The Court encourages cooperation of counsel in effecting informal discovery and compliance with discovery requests in a timely manner.

(B) TENDERED ORDER. A motion to compel discovery shall be accompanied by a tendered order compelling discovery with blank date lines for use by the Court in setting a deadline for compliance.

( C ) AWARD OF EXPENSES OF MOTION PURSUANT TO T.R. 37(A)(4). A party who seeks an award of expenses or attorney's fees in conjunction with the filing of a Motion to Compel, shall make said request in a separate written petition. The petition will not, however, be summarily

granted. The opposing party shall have a period of ten (10) days after service of the petition in which to respond and request a hearing.

A failure to respond may result in a summary granting of the petition. The Court may, however, in its discretion, set hearing upon any such petition and response.

**(D) CONTENT OF MOTIONS TO COMPEL AND RESPONSES.**

Motions to Compel. All motions to compel discovery shall contain the precise question or request propounded and the responsive answer or objection.

Responses to Motions. All responses to motions to compel discovery shall set forth the respective question or request propounded and the response or objection. Additionally, a recitation of the legal grounds in support of the response shall be provided.

Summary Ruling. Motions to compel and responses or objections which merely make reference to the moving party's discovery motion and the opposing party's response or objection shall be subject to summary ruling.

**LR38-TR52-1 FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In all cases where counsel has requested findings of fact and conclusions of law under Trial Rule 52, counsel shall be required to submit proposed findings and conclusions both in written form and on disc formatted for Word Perfect.

**LR38-TR53.5-1 CONTINUANCES.**

(A) GENERAL. Motions for continuance are discouraged. Parties are not entitled to continuances as a matter of right, and the granting of a continuance for one party does not entitle

opposing parties to a continuance as a matter of right.

(B) MOTION. A Motion for Continuance, unless made in open Court, shall be in writing and verified unless the Court directs otherwise. The motion shall set forth the date and time of the existing hearing and the specific reasons for the requested continuance. A motion which contains only general assertions, e.g., “Unavailability” or “other commitments”, with no additional specificity may be subject to summary denial.

(C) SIGNING REQUIREMENT BY PARTY TO SUIT. The Court may require any written Motion for Continuance to be signed by the party requesting the continuance in addition to counsel.

(D) TIME FOR FILING. Motions for Continuance shall be filed as soon after the cause for continuance is discovered by the party seeking same.

(E) CONSULTATION WITH OPPOSING COUNSEL. Prior to filing a Motion for Continuance, the movant’s counsel shall contact all opposing counsel of record and apprise them of the fact that a continuance will be sought and the reasons for the same. A Motion for Continuance shall recite that a consultation was sought and the position of opposing counsel to the sought continuance. Mere statements that attempts to reach opposing counsel have been unsuccessful without showing specific followup attempts may result in a summary denial of the motion.

(F) BY AGREEMENT OF COUNSEL. Where all counsel of record agree to the continuance, such agreement shall be submitted to the Court in a denominated “Agreed Motion for Continuance” signed by all counsel of record or by recitation within the text and title of the Motion that all counsel agree. Agreed Motions should be filed at least seven (7) days before the date of the hearing where feasible in order to permit the Court to schedule other matters.

(G) PAYMENT OF COSTS. The Court, in its discretion, may assess any costs and expenses necessarily incurred by the Court or parties as a result of continuances or delays.

(H) TENDER OF ORDER. All Motions for Continuance shall be accompanied by a tendered order sustaining same. The order shall identify the date and time of the existing hearing to be vacated and reset and contain appropriate blanks for the continued hearing to be completed by the Court.

**LR38-TR56-1 MOTIONS - SUMMARY JUDGMENT.**

(A) MOTIONS FOR SUMMARY JUDGMENT - BRIEFS. Motions for Summary Judgment shall be accompanied by a brief. An adverse party shall have thirty (30) days after service of the movant's brief to file an Answer brief and any opposing affidavits. Extensions of time for filing briefs shall be granted only by order of the Court.

(B) MATERIAL IN SUPPORT OF AND IN OPPOSITION TO SUMMARY JUDGMENT. At or prior to the time of filing a Motion for Summary Judgment and Brief in support thereof or an opposing brief, counsel shall insure, that all supporting or opposing materials, including affidavits, are made a part of the record in the cause.

( C ) BRIEFS. Briefs in support of and in opposition to Motions for Summary Judgment shall make specific reference to materials relied upon to support or oppose the Motion. Wherever feasible, copies of said materials should be attached to the respective briefs of the parties. When reference is made in a brief to a pleading, counsel shall indicate to the Court the filing date of said pleading. When reference is made to interrogatories or deposition, copies of the pertinent questions and answers shall be attached to the brief. Failure to comply with the provisions of this rule may subject such motions and responses to summary ruling.

(D) TIME FOR FILING MOTIONS. Although the rules of civil procedure permit early filing of Motions for Summary Judgment, counsel should refrain from filing Motions for Summary

Judgment until discovery is sufficiently complete to permit a proper assessment of the Motion and Response. When Motions for Summary Judgment are prematurely filed, the Court may delay ruling and hearing thereon until a time subsequent to the Pre-trial Conference.

(E) UNTIMELY MOTIONS FOR SUMMARY JUDGMENT. Due to congestion of Court calendars, any Motion for Summary Judgment filed less than thirty (30) days before the trial may not be considered by the Court.

(F) PARTIAL SUMMARY JUDGMENT.

(1) Any Motion for Partial Summary Judgment shall be accompanied by proposed findings of fact and conclusions of law.

(2) Responses to Motions for Partial Summary Judgment shall similarly be accompanied by proposed findings of fact which reflect the genuine issues which a party contends exist in a cause.

(3) Each finding shall be accompanied by specific reference to the material that supports said finding.

(4) Conclusions of law shall make reference to statutory or case citations supporting same.

The Court reserves the right to request proposed findings of fact and conclusions of law when it determines that pursuant to the filing of a general Motion for Summary Judgment, a Partial Summary Judgment may be in order.

**LR38-TR73-1 TELEPHONE CONFERENCING.**

(A) PURPOSE AND SETTING. In order to expedite the Court's business, the Court encourages in conjunction with Trial Rule 73, the use of telephone conferencing for the hearing of motions, for the conducting of Pre-Trial Conferences and for other matters which may be reasonably conducted by use of telephone and shall be set at the discretion of the Court upon the Court's motion

or upon request of a party.

(B ) HEARING ON MOTIONS. Within ten (10) days after receipt of the notice of hearing, any party may request that the Court conduct the hearing in a manner different from that established in the notice. In the event, the Court sets hearing upon a motion by means of a telephone conference, it shall be the obligation of the party requesting their appearance by telephone, or moving party, to arrange and place the call at the time designated by the Court.

( C) SANCTIONS. Should the Court elect to set hearing upon motions for Pre-Trial conference by telephone, all counsel shall treat said setting as if the hearing or conference was to be conducted in open Court. Therefore, the Court reserves the right to order payment of the telephone call or of attorneys' fees in the event it determines that abuses have occurred in that counsel have failed or refused to cooperate in the placement of or coordination for said call.

**LR38-TR79-1 SPECIAL JUDGE IN CIVIL AND JUVENILE CASES.**

Pursuant to Trial Rule 79 of the Indiana Rules of Trial Procedure, the Circuit and Superior Courts of Jay County adopt the following rule for the selection of special judges in civil and juvenile cases.

**(A) CIVIL CASES:**

(1) Subdistrict Designations: To make the most effective use of judicial resources by using judges in close proximity, Administrative District 6 shall be divided into three subdistricts, the judges in each subdistrict constituting the panel for assignment in the event a special judge fails to accept a civil case under Trial Rule 79 (D), (E), or (F), except that the following juvenile judges of the whole district shall constitute the panel for assignment in juvenile cases:

Presiding Judge, Blackford Circuit Court;

Presiding Judge, Delaware Circuit Court #3;

Presiding Judge, Madison Superior Court #2;

Presiding Judge, Delaware Circuit Court #1;

Presiding Judge, Randolph Circuit Court;

Presiding Judge, Delaware Circuit Court #2;

Presiding Judge, Jay Circuit Court;

Presiding Judge, Henry Circuit Court;

Presiding Judge, Henry Superior Court #1;

Presiding Judge, Grant Superior Court #3.

The subdistricts are Grant and Blackford counties; Madison and Henry counties; Delaware, Jay and Randolph counties. Any assignment required in a civil case shall be made by the Jay County Clerk on a rotating basis in consecutive order to the judges of the following courts:

In Delaware, Jay and Randolph counties, Presiding Judge of the:

Delaware Circuit Court #3;

Delaware Circuit Court #1;

Randolph Circuit Court;

Delaware Circuit Court#2:

Jay Circuit Court;

Delaware Circuit Court #4;

Jay Superior Court;

Delaware Circuit Court #5;

Randolph Superior Court.

The list of regular judges in the subdistrict containing Delaware County may be supplemented by senior judges appointed by the Supreme Court to serve as senior judges in that court from the whole district.

~~In no event shall an individual be chosen whose name was placed on and stricken from the panel submitted to the litigants under Trial Rule 79 (F).~~

(2) Annual Review: This local rule shall be subject to annual review by the regular judges of this

administrative district.

(B) SEPARATE LISTS: The Jay County Clerk shall maintain separate civil and juvenile lists, in the order of rotation as set forth in this rule, from which the regular sitting judge can determine the appropriate appointment in civil and juvenile cases.

## **RULES OF CRIMINAL PROCEDURE**

### **LR38-CP00-1 CRIMINAL CASE ASSIGNMENT**

(A) ASSIGNMENT GENERALLY: All criminal cases where the most serious charge is Murder, a class A, B, or C Felony, except for cases where ~~at least one of the counts~~ the most serious charge of the Information alleges a violation of Title Nine of the Indiana Code, shall be assigned to the Jay Circuit Court. All other criminal cases shall be filed in the Jay Superior Court. The judges of the Jay Circuit Court and Jay Superior Court shall meet from time to time and may, after considering the workload of each Court and other circumstances, agree to reverse the assignment of criminal cases.

(B) CASE TRANSFER: The judges of the Jay Circuit and Jay Superior Court may order the transfer and reassignment of criminal cases to the other court, subject to the acceptance by the receiving judge.

( C) SITTING OF THE JUDGES: The judge of the Jay Circuit Court may sit as judge of the Jay Superior Court in all criminal matters when the judge of the Jay Superior Court is unavailable, without further request or consent required. The judge of the Jay Superior Court may sit as judge of the Jay Circuit Court in all criminal matters when the judge of the Jay Circuit Court is unavailable, without further request or consent required.

(D) REFILING AND SUBSEQUENT FILING: When the State has dismissed a case and chooses to re-file that case, the case shall be re-filed in the Court from which the dismissal was taken. In the event that additional charges are filed against a criminal defendant subsequent to the initial assignment of the case, the case shall be reassigned, if necessary, to the Court to which the case would have been originally assigned had all the charges been filed at the time of the original assignment.

**LR38-CP00-2 CRIMINAL PRE-TRIAL CONFERENCES.**

Pursuant to T.R. 81, the following Local Rule is adopted with the intent to expedite criminal cases.

Step 1. At the Initial hearing, the Court will set the Omnibus date, Pre-Trial Conference and may set a Jury Trial date. Defendants will be advised of these dates and the consequences of failing to appear.

Step 2. The Rules on Automatic Discovery will apply. The Automatic Discovery Rules require a discovery disclosure by the State within 30 days of the Initial hearing and a discovery disclosure by the Defendant within 30 days thereafter.

Step 3. The objective of the Pre-Trial Conference is to resolve the case by agreement or to be in a position to proceed to trial.

Step 4. (a) If a plea agreement or plea without agreement is intended, a date of disposition may be assigned or a plea may be taken at the Pre-Trial Conference.

(b) Absent a plea by agreement or otherwise, the case will be confirmed for a trial date unless a continuance of the Pre-Trial Conference is agreed to by the State, Defendant and the Court.

At all times, the Defendant's right to a speedy trial shall be honored.

Absent obtaining prior approval from the Court, the use of telephone conferencing for the hearing of Pre-Trial conference is prohibited. The Defendant, Defendant's

attorney and the prosecutor assigned to the case shall physically appear at the Pre-Trial Conference.

If the case is to proceed to trial, the Pre-Trial Conference should resolve or schedule resolution of pre-trial issues, discuss length of trial, jury selection issues, evidentiary issues, instructions, possible lesser included offenses and any other matters necessary to expedite the trial.

Cases involving extensive discovery or delayed discovery may require Criminal Rule 4 special consideration.

## **LR38-CR00-2 AUTOMATIC CRIMINAL DISCOVERY RULES**

### **1. GENERAL PROVISIONS**

(a) Upon the entry of an appearance by an attorney for the Defendant, the State shall disclose and furnish all relevant items and information under this rule to the Defendant within thirty (30) days from the date of the appearance, subject to Constitutional limitations and such other limitation as the Court may specifically provide by separate order, and the Defendant shall disclose and furnish all relevant items and information under this rule to the State within thirty (30) days after the State's disclosure.

(b) No written motion is required, except:

- (1) To compel compliance under this rule
- (2) For additional discovery not covered under this rule;
- (3) For a protective order seeking exemption from the provisions of this rule; or,
- (4) For an extension of time to comply with this rule.

(c) Although each side has a right to full discovery under the terms of this rule, each side has a corresponding duty to seek out the discovery. Failure to do so may result in the waiver of the right to full discovery under this rule.

## 2. STATE DISCLOSURES

(a) The State shall disclose the following materials and information within its possession or control:

(1) The names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and recorded statements;

(2) Any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making of statements;

(3) If applicable, the State shall disclose the existence of grand jury testimony of any person whom the Prosecuting Attorney may call as a witness at any trial or hearing in the case. In addition, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of such witness or witnesses. If such transcripts do not exist, the Defendant may apply to the Court for an order requiring their preparation;

(4) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;

(5) Any books, papers, documents, photographs, or tangible objects that the Prosecuting Attorney intends to use in the hearing or trial or which were obtained from or belong to the accused; and,

(6) Any record of prior criminal convictions that may be used for

impeachment of the persons whom the State intends to call as witnesses at any hearing or trial.

(b) The State shall disclose to the Defendant(s) any material or information within its possession or control that tends to negate the guilt of the accused as to the offenses charged or would tend to reduce the punishment for such offenses.

(c) The State may perform these disclosure obligations in any manner mutually agreeable to the State and the Defendant. Compliance may include a notification to the Defendant or defense counsel that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.

### 3. DEFENDANT DISCLOSURES

(a) Defendants' counsel (or Defendant where Defendant is proceeding pro se) shall furnish the State with the following material and information within his or her possession or control:

(1) The names and last known addresses of persons whom the Defendant intends to call as witnesses along with copies of their relevant written and recorded statements;

(2) Any books, papers, documents, photographs, or tangible objects Defendant intends to use as evidence at any trial or hearing;

(3) Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at any trial or hearing;

(4) Any defense, procedural or substantive, which the Defendant intends to make at any hearing or trial; and,

(5) Any record of prior criminal convictions known to the Defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

(b) The Defendant may perform these disclosure obligations in any manner mutually agreeable to the Defendant and the State. Compliance may include a notification to the State that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.

#### 4. ADDITIONS, LIMITATION AND PROTECTIVE ORDERS

(a) Discretionary Disclosures: Upon written request and a showing of materiality, the Court, in its discretion, may require additional disclosure not otherwise covered by this rule.

(b) Denial of Disclosure: The Court may deny disclosure required by this rule upon a finding that there is substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure.

(c) Matters not subject to Disclosure

(1) Work Product: Disclosure hereunder shall not be required of legal research or records, correspondence, reports, or memoranda to the extent of its legal or investigative staff, or of defense counsel or counsel's legal or investigative staff; and,

(2) Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest of non-disclosure and where a failure to disclose will not infringe upon the Constitutional rights of the accused. Disclosure shall not be denied hereunder of the identity of witnesses to be produced at trial or hearing. This rule does not supersede any existing case law in this area.

(3) Protective Orders: Either the State or defense may apply for a protective order for non-disclosure of discovery required hereunder or any additional requested discovery.

5. DUTY TO SUPPLEMENT RESPONSES. The State and the Defendant are under a continuing duty to supplement the discovery disclosure required hereunder as required upon the acquisition of additional information or materials otherwise required to be disclosed hereunder. Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

6. SANCTIONS UPON FAILURE TO COMPLY. Failure of a party to comply with either the disclosure requirements or the time limits required by this rule may result in the imposition of sanctions against the noncompliant party. These sanctions may include, but are not limited to, the exclusion of evidence at a trial or hearing.

**LR38-CP13-1 SPECIAL JUDGE IN CRIMINAL CASES.**

In the event that a change of judge is granted or it becomes necessary to assign an alternative judge in any felony or misdemeanor proceeding, the case shall be reassigned to the judges of the following Court in consecutive order on a rotating basis with the Jay Circuit Court commencing this rotation with the Judge of the Adams Circuit Court and with the Jay Superior Court commencing this rotation with the Judge of the Randolph Circuit Court.

Presiding Judge, Adams Circuit Court

Presiding Judge, Adams Superior Court

Presiding Judge, Randolph Circuit Court

Presiding Judge, Randolph Superior Court

Each Court shall maintain a log showing the next judge available for reassignment. In the event a judge is not available for assignment from such list or the particular circumstances of the case warrant selection of a Special Judge by the Indiana Supreme Court, the case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge pursuant to Criminal Rule 13(D).

**LR38-CP00-3 COMMUNITY TRANSITION PROGRAM**

- (A) Unless otherwise ordered by the Court, a person in the Community Transition Program shall be in custody by the Jay County Sheriff at the Jay County Security Center until the person completes the person's fixed term of imprisonment.
- (B) While in the custody of the Jay County Sheriff, the person shall not commit any criminal offenses and shall obey all rules and regulations adopted by the Sheriff of Jay County for inmates at the Jay County Security Center.
- (C) If the person meets the qualifications of established by the Jay County Sherif, then the Sheriff of Jay County is authorized to consider the person for participation in a work release program.
- (D) If the person is employed while in the Community Transition Program, his earnings shall be paid to t he Jay County Sheriff and shall be distributed in accordance with IC 11-10-11.5-12 (West, 2007or as hereafter codified).
- (E) If the person in the Community Transition Program is placed on probation, after a hearing by the Court, the person shall comply with the terms and conditions as ordered by the Court.
- (F) If the person assigned to the Community Transition Program fails to comply with a rule or condition under IC 11-10-11.5-11 (West, 2007, or as hereafter codified), then the person shall, after a hearing, be subject to the sanctions as set forth in IC 35-38-1-26 (West, 2007, or as hereafter codified) .
- (G) Unless otherwise ordered by the Court, after a person completes his fixed term of imprisonment, less the credit time he has earned with respect to that term, the person shall be released on parole.
- (H) All persons in the Community Transition Program shall be served with a copy of the order adopting these rules upon their arrival at the Jay County Security Center and a copy thereof

shall be returned to the sentencing Court for placement in the case file for the person.

**LR38-CP00-4 UNIFORM BAIL BOND SCHEDULE**

A. The Court shall set the amount of bail that a person charged with a criminal offense shall be required to post. In the case of a person to be arrested pursuant to a criminal bench warrant, the amount of bail shall be endorsed on the warrant.

B. In the absence of a different amount of bail having been set by the Court pursuant to Paragraph A herein above and subject to the exceptions set forth herein below, bail is hereby set by the Court as follows in all criminal cases filed in the Jay Circuit Court and Jay Superior Court:

Murder.....	As Fixed By The Court
Class A Felony.....	\$50,000.00 surety or cash
Class B Felony.....	\$30,000.00 surety or cash
Class C Felony.....	\$10,000.00 surety or cash
Class D Felony .....	\$3,000.00 surety or cash
Misdemeanor.....	\$1,000.00 surety or cash

In the event that a person has been charged with multiple offenses arising out of the same incident the person's bail shall be set in the amount applicable to the sum of the bail for each of the offenses charged, but not to exceed 150% of the amount of bail applicable to the most serious offense, unless otherwise specified by the Court. In the event that the person has been charged with multiple offenses not arising out of the same incident, then the person's bail shall be as fixed by the Court.

All persons are to be informed before posting bail pursuant to this schedule that they may defer posting bail and remain in custody until their Initial Hearing at which time the Court will consider whether they are entitled to a lower bail based on their individual circumstances.

C. (1) If the sentence of the person charged is sought to be enhanced by virtue of an allegation

that the person is an habitual offender, the person's bail for the current alleged offense shall be increased by the sum of \$30,000.00.

(2) If the sentence of the person charged is sought to be enhanced by virtue of an allegation that the person is either an habitual substance offender the persons bail for the current alleged offense shall be increased by the sum of \$8,000.00.

D. Notwithstanding the above-stated bail schedule, the Sheriff shall detain a person charged with a crime until the Court is next in session or until the Judge thereof can otherwise be reached to set bail if the Sheriff has reason to believe:

- (1) that the person has previously escaped from jail or a mental hospital;
- (2) that the person has previously failed to appear in any Court as ordered;
- (3) that the person has an outstanding warrant or detainer against him;
- (4) that the person is currently released on his own recognizance or on bond on another pending charge;
- (5) that the person is mentally disturbed or incompetent;
- (6) that the person is currently on probation, parole or under a withheld or suspended sentence;
- (7) that the person has a prior felony conviction;
- (8) that, for any other reason, the person charged presents a disproportionate risk of non-appearance in Court on the current charge.

E. This section does not apply to those persons arrested for the misdemeanors of battery, domestic battery, invasion of privacy, dealing in marijuana, resisting law enforcement or driving while suspended. If a person, who is an Indiana resident, has been arrested for a misdemeanor, and is not precluded from immediately posting bail by virtue of the provisions of Paragraph D, the person shall be released on his own recognizance if the person has had substantial contacts with Jay County for a continuous period of three (3)

years immediately prior to the date of the person's arrest. Substantial contacts with Jay County mean a continuous residence or place of employment in Jay County during such period. Before being released on his own recognizance a person shall be required to execute the Affidavit attached hereto as Exhibit A and the Release On Own Recognizance form attached hereto as Exhibit B.

F. All persons who are arrested on the misdemeanor charges of battery, domestic battery, invasion of privacy, dealing in marijuana or resisting law enforcement, and who are not precluded from immediately posting bail by virtue of the provisions of Paragraph D, shall be required to post bail according to the bail schedule.

G. All Indiana residents who are arrested on the misdemeanor charge of driving while suspended, and who are not precluded from immediately posting bail by virtue of the provisions of Paragraph D, shall be released on their own recognizance. Before being released on his own recognizance a person shall be required to execute the Release On Own Recognizance form attached hereto as Exhibit B. All non-residents of the State of Indiana who are arrested on the misdemeanor charges of driving while suspended shall be required to post bail according to the bail schedule.

H. Unless otherwise specified, it shall be a condition of bail for each person arrested on a charge of Invasion of Privacy or for an offense involving violence or physical abuse against another person, that such person refrain from having any direct or indirect contact with the alleged victim(s). Said condition shall be specifically set forth on such person's bond. The sheriff shall post in a conspicuous manner in the jail and shall provide a copy of the "Notice to Arrested Persons Posting a Bail Bond", attached hereto as Exhibit "D", to such person for signature before posting bond and a signed copy of the notice shall be attached to the bond filed with the Court.

I. Absent prior Court approval, bail for a person who is charged with a felony or misdemeanor may only be posted in the form of a surety or cash bond.

J. The Sheriff may use the chart set forth in I.C. 35-33-1-6 to determine the minimum number of

hours that a person arrested for an alcohol-related offense should be detained before his release on bail. In no event, however, shall a person be released from detention while still in a state of intoxication.

EXHIBIT A

STATE OF INDIANA

COUNTY OF JAY, SS:

AFFIDAVIT IN SUPPORT OF RELEASE  
ON DEFENDANT'S OWN RECOGNIZANCE

The undersigned hereby states the following in support of his/her request to be released from custody on his/her own recognizance:

1. My full name is \_\_\_\_\_.
2. My current address is \_\_\_\_\_  
\_\_\_\_\_
3. My birth date is \_\_\_\_\_ and my age is \_\_\_\_\_.
4. My social security number is \_\_\_\_\_.
5. I have been a continuous resident of Jay County, Indiana, since \_\_\_\_\_.
6. I am employed by \_\_\_\_\_.
7. I have been continuously employed in Jay County, Indiana, since \_\_\_\_\_.

8. I am/am not (strike out inapplicable term) presently on bond, probation, parole or under a withheld or suspended sentence in Jay County or any other jurisdiction.

9. I have/have not (strike out inapplicable term) previously failed to appear in any Court as ordered.

10. I do/do not (strike out inapplicable term) have a prior felony conviction.

I affirm, under the penalties of perjury, as specified by I.C. 35-44-2-1, that the foregoing representations are true.

Dated:\_\_\_\_\_.

\_\_\_\_\_  
Defendant

EXHIBIT B

STATE OF INDIANA  
COUNTY OF JAY, SS:

IN THE JAY CIRCUIT/SUPERIOR COURT  
200\_\_ TERM

STATE OF INDIANA

VS.

\_\_\_\_\_

RELEASE ON OWN RECOGNIZANCE

I, \_\_\_\_\_, the undersigned, hereby acknowledge that I am being released from custody on my own personal recognizance, and I hereby promise to appear in the Jay (*strike inappropriate Court*) Circuit / Superior Court at \_\_\_\_\_ o'clock, \_\_\_\_m. on \_\_\_\_\_, 200\_\_, and at all other times as directed by the Court until such cause is determined, to answer to the offense of:

\_\_\_\_\_

\_\_\_\_\_

This Court additionally orders that the Defendant shall:

1. Not commit any violation of state, local or federal laws;
2. Inform the Court of any change in address within 24 hours of said change; and
3. \_\_\_\_\_

\_\_\_\_\_

I understand that failure to appear at the above stated time or times as required or failure to comply with this order on release will result in the immediate issuance of a warrant for my arrest.

Dated:\_\_\_\_\_.

\_\_\_\_\_

Defendant

NOTE: Affidavit In Support Of Release On Defendant's Own Recognizance must be signed and verified before release of Defendant.

EXHIBIT C

STATE OF INDIANA  
COUNTY OF JAY, SS:

IN THE JAY CIRCUIT/SUPERIOR  
COURT  
200\_\_ TERM

STATE OF INDIANA

VS.

\_\_\_\_\_

FULL CASH BOND

[I.C.. 35-33-8-3(a)(1)]

I, \_\_\_\_\_, Defendant herein, understand that I have been admitted to bail in the sum of \$\_\_\_\_\_ dollars and I hereby promise to appear in the Jay (*strike inappropriate Court*) Circuit / Superior Court at \_\_\_\_\_ o'clock, \_\_\_\_m., on \_\_\_\_\_, 200\_\_ and at all other times as directed by the Court until such cause is determined, to answer to the offense of:

\_\_\_\_\_.

I understand that I am bound to the State of Indiana in the sum of \$\_\_\_\_\_ dollars. If I appear in Court as directed and comply with all conditions as ordered by the Court until this cause is finally determined, then this bond shall be void, if otherwise, the bond shall remain in full force.

If I do not appear at any time fixed by the Court, the Court shall declare this bond to be forfeited and notice of forfeiture shall be mailed to me at \_\_\_\_\_. Furthermore, unless the Court finds that there was justification for the Defendant's failure to appear, the Court shall immediately enter judgment for the State against me and certify the judgment to the Clerk for record. The amount deposited in cash shall be applied to the payment of the judgment. The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

I further understand that if I fail to appear as required or violate any of the conditions of release from custody, the release may be revoked and a warrant for my arrest will be issued immediately.

I agree to the following terms as conditions for being released from custody on this bond during the pendency of this cause.

a. I will inform the Court and my attorney of any change of address or employment within 24 hours of such change;

b. I will personally appear in this cause at any time as directed;

c. I will not commit any violation of state, local or federal laws while released on bail;

d. I agree to comply with the following additional conditions of release as ordered by the Court: \_\_\_\_\_

\_\_\_\_\_.

When the conditions of the bond have been performed, the Clerk of the Court shall return to me, unless the Court orders otherwise, the sum which has been deposited, less the statutory deductions for (a) the 10% Clerk's fee (up to \$50.00); and (b) the "cost of publicly paid representation" including attorney fees, expenses or wages incurred by the County that are directly attributable to the Defendant's defense. If a judgment for a fine, court costs, restitution is entered in this cause, the balance of the deposit after deduction of the bond costs, may, upon order of the Court, be applied by the Court Clerk to the payment of the judgment. (I.C. 35-33-8-7).

At the conclusion of my case, the Court shall order that my bond be refunded to me less the deductions listed herein above.

I understand the terms of this agreement, voluntarily enter into it, and agree to abide by the terms thereof.

Dated:\_\_\_\_\_.

\_\_\_\_\_Defendant  
\_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone No.

EXHIBIT D

STATE OF INDIANA  
COUNTY OF JAY, SS:

IN THE JAY CIRCUIT/SUPERIOR COURT  
200\_\_ TERM

STATE OF INDIANA  
VS.  
\_\_\_\_\_

NOTICE TO ARRESTED PERSONS POSTING A BAIL BOND

Pursuant to the AMENDED ORDER ESTABLISHING UNIFIED BAIL BOND SCHEDULE entered by the Jay Circuit Court and the Jay Superior Court on June 19, 2002, section H., you are hereby notified that, inasmuch as you have been arrested on a charge of Invasion of Privacy or for an offense involving violence, harassment, or physical abuse against another person.

-----

ACKNOWLEDGMENT

I UNDERSTAND THAT I am to refrain from having any direct or indirect contact with the alleged victim(s)/complaining witness(es) in this cause, the person(s) named below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I FURTHER UNDERSTAND that a person who knowingly or intentionally violates this Order May be charged with the Offense of Invasion of Privacy, Class A Misdemeanor, punishable by imprisonment of up to 1 year and a fine not greater than \$5,000.00. (See IC 35-46-1-15.1). An invitation by the alleged victim/ complaining witness to their residence or other place where he/she is located, does not waive or nullify any relief provided by the court in the order of protection.

I hereby acknowledge receiving notice of this Order this date.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Arrested Person

\_\_\_\_\_  
Witness signature

SHERIFF/BONDSMAN: ATTACH SIGNED COPY TO BOND WHEN FILING WITH COURT

## **Jury Rules**

### **LR38-JR1-1 JURIES**

The procedure in Jury Trials shall be governed by the Indiana Jury Trial Rules numbered 1 through 30 effective January 1, 2003 and any subsequent amendments and modifications thereto. The Courts may require Jury Instructions to be submitted on disc formatted for Word Perfect.

### **LR38-JR1-2 JURY NOTICE AND SUMMONS PROCEDURE**

The Judges of the Jay Superior and Jay Circuit courts have adopted a two-tiered procedure for jury notice and summons. The jury administrator may send summons after the jury qualification form and notice. However, the summons shall be issued at least one (1) week prior to the date the juror is to appear.

The summons shall include the information regarding directions to the Court, parking, public transportation, compensation, appropriate attire, meals, and how to obtain auxiliary aids and services required by the Americans With Disabilities Act. The judge may direct the jury administrator to include a questionnaire to be completed by each prospective juror.

A judge may order prospective jurors to appear with less than one (1) week notice if it becomes apparent that additional jurors are required to complete jury selection.

## **Family Law**

### **LR38-FL00-1 FAMILY COURT RULES**

**(A) CHILDREN IN THE MIDDLE ATTENDANCE.** All parties in a proceeding in which child custody or visitation is at issue shall complete the “Children in the Middle” Program within sixty (60) days following the date of initiation of such proceedings. Each party shall pay the fee associated with this program before the first session the party attends. No petition for custody or visitation shall be granted to a party who has not completed the “Children in the Middle” Program.

(B) CONTESTED FINAL HEARINGS. At contested final hearings, counsel are directed to prepare and submit a list of assets, list of debts, and proposed distribution of assets and debts indicating those items which are in dispute along with any other supporting documents or exhibits. Requests for exemption from this rule will be handled on a case by case basis.

(C) DECREE OF DISSOLUTION OF MARRIAGE INVOLVING MINOR CHILDREN. The written decree must state that the non-custodial parent is responsible for the annual child support docket fee. Two original copies of the decree must be tendered along with sufficient copies for all counsel and parties if unrepresented. The decree must also provide for the payment of uninsured medical expenses pursuant to the child support rules. A child support worksheet must be attached to all decrees.

(D) DECREE PREPARED SUBSEQUENT TO HEARING. A decree prepared following a hearing at the direction of the court shall be prepared by Counsel for the Petitioner and submitted to counsel for the Respondent who shall both sign the Decree “Approved as to Form.”

(E) GUARDIAN AD LITEMS. The Courts shall utilize the Jay County Guardian Ad Litem/CASA office for the appointment of a Guardian Ad Litem. A separate order will be issued by the court and the CASA appointed by the Court should file a written report with the court, with a copy to all counsel and parties of record, within 2 days of any scheduled hearing. The Guardian Ad Litem should be available for hearing.

### **Administrative Rules**

#### **LR38-AR00-1 LATE PAYMENT FEE ON FINES AND COSTS**

The Jay County Clerk shall be permitted to collect a late payment on fines and costs pursuant to I.C. 33-37-5-22.

#### **LR38-AR09-2 INTERNET POSTING OF NON-CONFIDENTIAL COURT INFORMATION**

The Jay County Clerk shall be permitted to seek and obtain approval from the Division of State Court

Administration for the posting of non-confidential court information on the Internet through service providers including, but not limited to, Doxpop and any state sanctioned case management system. The Jay County Clerk shall seek appropriate renewals to remain in compliance and shall comply with Administrative Rule 9.

**LR38-AR00-3 DISPOSITION OF TRIAL MATERIALS.**

(A) MATERIALS NOT IN EVIDENCE. Trial materials left in the courtroom following trial and not offered or admitted into evidence, will not be the responsibility of the Court or the Court Reporter. Counsel and parties are responsible for removing all materials related to the trial which were not offered into evidence.

(B) MATERIALS OFFERED AND/OR ADMITTED INTO EVIDENCE. The Court Reporter will retain all trial materials admitted into evidence or offered into evidence. Such materials will be disposed of pursuant to the Supreme Court Rules regarding retention of exhibits as follows:

(1) During period less than 60 days following Judgment: Materials will be released by the Court Reporter to a party or the parties counsel within the 60-day period following judgment in which a Motion to Correct Errors might be filed, only by written agreement of all parties or counsel; or upon Order of the Court pursuant to application. When parties are permitted to withdraw exhibits, receipts should be prepared in advance for signature and provided to the Court Reporter in exchange for the exhibits withdrawn.

(2) More than 60 days following Judgment: Exhibits and trial materials will be released to counsel or parties pursuant to a receipt executed by counsel and upon proof that 10 days prior notice has been given to opposing counsel. The Court Reporter may dispose of trial materials at any time after 60 days following judgment, provided 10 days notice is given to all counsel of record.

**LR38-AR01-4 CASELOAD ALLOCATION**

(A) CRIMINAL CASES: All criminal cases shall be filed in accordance with LR38-CP00-1.

(B) CIVIL CASES:

(1) All cases involving small claims shall be filed in the Jay Superior Court;

- (2) All cases involving probate and juvenile matters shall be filed in the Jay Circuit Court;
- (3) Cases other than those mentioned in the preceding paragraphs may be filed in either the Jay Superior or Jay Circuit Court, at the discretion of the filing party. However, nothing in this rule shall prohibit a judge of said Court from transferring a case from that court to the other as allowed by statute, LR38-CP00-1(B), or rule of trial procedure. Furthermore, upon a determination by the judges of both the Jay Circuit and Jay Superior Court, based on weighted caseload studies, that deviation from this rule is necessary to ensure an even distribution of judicial workload among the courts of record in the county, the judges may make such temporary order as is necessary to promote even distribution and avoid more than a 0.40 utilization variance.

**~~LR38-AR00-1~~ LR38-AR00-5 COURT SUBSTANCE ABUSE PROGRAM FEE**

The following fee shall apply and shall be payable to the Clerk of the Jay Circuit and Superior Courts for services rendered on behalf of offenders referred to the Jay Superior Court Substance Abuse Program:

(A) A fee of \$400.00 shall be assessed against all offenders referred to the Jay Superior Court Substance Abuse Program;

(B) For those offenders who pay the Jay Superior Court Substance Abuse Program Fee within the time allotted by the Court, and who successfully and timely complete the Jay Superior Court Substance Abuse Program without additional fees being assessed against the program by the service provider, the Court will suspend \$50.00 of the fee.

**~~LR38-AR00-2~~ LR38-AR00-6 COURTHOUSE SECURITY AND WEAPONS**

(A) INSPECTIONS. All persons entering the Jay County Courthouse shall consent to an inspection of person, any package, briefcase, or purse. All persons, except those persons noted below, are

prohibited from entering the Jay County Courthouse while carrying any of the following:

*a deadly weapon, a firearm, an electric stun weapon, a stun gun, a taser, a knife, an explosive device, a club, or any other material that, in the manner in which it is used, could ordinarily be used or is intended to be used and is readily capable of causing serious bodily injury.*

**(B) VIOLATIONS.** Any person refusing to comply with this Order will be denied entrance into the Jay County Courthouse, and anyone knowingly violating this Order will be subject to contempt of Court pursuant to Indiana Code '34-47-3.

**(C) EXEMPTED PERSONS.** The following persons are exempt from this order: law enforcement officers under Indiana Code ' 35-41-1-17, Indiana Department of Correction Officers, Community Correction officers, judicial officers, and probation officers who are in the courthouse for official business and duly authorized to carry deadly weapons. Employees of the courthouse who carry chemical spray devices for personal protection are also exempt. The persons described as exempt from this Order *shall not be exempt* if they or any member of their family is a party to any proceeding taking place in court.

## **LR38-AR15-04 LR38-AR15-7 COURT REPORTERS.**

### **SECTION ONE: DEFINITIONS**

- (1) *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Jay County.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

## SECTION TWO. SALARIES, GAP TIME AND OVERTIME PAY

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours, or overtime hours.

The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours. Subject to the approval of the county council, the amount of the annual salary shall be set by the Court.

(2) The maximum per page fee a court reporter may charge for preparation of a private or state indigent transcript shall be Three and 50/100 Dollars (\$3.50).

(3) The maximum per page fee a court reporter may charge for preparation of a county indigent transcript shall be Three and 50/100 Dollars (\$3.50); the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(4) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

### SECTION THREE. PRIVATE PRACTICE

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (a) The reasonable market rate for the use of equipment, work space and supplies;
- (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
- (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

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BRIAN D. HUTCHISON, JUDGE  
JAY CIRCUIT COURT

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JOEL D. ROBERTS, JUDGE  
JAY SUPERIOR COUR

APPENDIX A  
TO LOCAL RULES SCHEDULE UNDER  
T.R. 81 AND ADMIN. R. 1(E)

**In The  
Indiana Supreme Court**

IN THE MATTER OF	)	
	)	
REQUEST FOR APPROVAL	)	
	)	CASE NO.
OF AMENDED LOCAL RULES	)	
	)	
FOR COURTS OF RECORD IN	)	
	)	
JAY COUNTY	)	

REQUEST FOR APPROVAL OF AMENDED LOCAL RULES

The judges of the Courts of record of Jay County have decided to adopt the local rules indicated below and request Supreme Court approval for the following local rules for which Supreme Court approval is required:

- 1        SPECIAL JUDGE SELECTION RULE PURSUANT TO TR 79(H) (as amended).
2.        CASE LOAD ALLOCATION PURSUANT TO ADMINISTRATIVE RULE 1.

The local rule indicated above is proposed for adoption without first being published for comment because good cause exists for the Courts to deviate from the schedule established by T.R. 81. Upon approval by the Supreme Court, this local rule shall be published as required by TR 81(D) and shall not be effective until so published for comment.

Accordingly, the judges of record of Jay County request approval of the above noted local rule.

Dated: \_\_\_\_\_

\_\_\_\_\_  
BRIAN D. HUTCHISON, JUDGE  
JAY CIRCUIT COURT

Dated: \_\_\_\_\_

\_\_\_\_\_  
JOEL D. ROBERTS, JUDGE  
JAY SUPERIOR COURT